IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

WP(C).No. 19681 of 2006(R)

EP 726/2005 IN OS.1460/2003 of PRL.M.C.,ERNAKULAM

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PETITIONERS:

1. V.HARIHARAN,KANNEZATHU
   VADAKKEMADAM, THRIPUNITHURA,
   ERNAKULAM DISTRICT.

2. MANOJ, S/O.V.HARIHARAN,
   KANNEZHATHU VADAKKEMADAM,
   THRIPUNITHURA, ERNAKULAM DISTRICT.

BY ADV. SRI.G.HARIHARAN
SRI.PRAVEEN.H.

RESPONDENT:

ALLAHABAD BANK, M.G.ROAD,
ERNAKULAM - 682011.
REPRESENTED BY ITS MANAGER.

BY ADV. SRI.DEVAN RAMACHANDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P. Balachandran, J.

W.P.(C)No. 19681 of 2006 R

JUDGMENT

The grievance of the petitioners, who are the judgment debtors in O.S.No.1460/03 on the file of the Munsiff's Court, Ernakulam, is that despite they being the legal representatives of the original debtor, the court below, in execution of the decree, has ordered warrant to be issued against them. Counsel for the respondent/decree holder also submits that the petitioners were being impleaded in their capacity as the legal representatives of the original debtor, who availed of loan from the respondent Bank. Personal execution, in the circumstances, cannot be had against the petitioners and the contention of the petitioners has, therefore, to be upheld.

In the result, allowing this writ petition, I order that no personal execution shall be proceeded with against the petitioners, as they are the legal

representatives of the original debtor. They are liable only to the extent of the assets, to which, they have succeeded to the deceased original debtor.

22nd March, 2007 (K.P.Balachandran, Judge)

tkv